IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FOURTEENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 23114 of 2004

Between:

Bandaru Bhopal, s/o B.Ramsamy, in the premises
under the name and style of "Manik Press" No.15-5-99, Afzal Gunj, Hyd.rep.,

by General Power of Attorney Holder
Sunderlal, s/o Sri Kanthilal, aged 24 years, Occ:Business, r/o H.No.21-3-187, Moosa Bowli, Hyderabad.

..... PETITIONER

AND

1 Municipal Corporation of Hyderabad, BRKR, Tank Bund Road, Hyd., rep., by Commissioner.
2 The Assistant City Planner, Town Planning Section, Circle No.II, Municipal Corporation of Hyderabad,
Sardar Mahal, Charminar, Hyderabad.
3 Indra Prakash Neemkar, s/o late Gopal Rao Neemkar,
r/o 15-5-95, First Floor, Afzal Gunj, Hyderabad.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction in the mandamus or otherwise, declaring that the impugned proceedings of the respondents 1 and 2 bearing letter No.3106/TPS/C2/W15/MCH/2004 dt.1-12-2004 in respect of shop No.15-5-99, situated at Afzal Gunj, Hyderabad, where the petitioner is doing business under the name and style of 'Manik Press', under the purported exercise of power under Sec.459 of the H.M.C. Act is wholly illegal, arbitrary and ultra virus the powers of the respondents 1 and 2 and consequently declare the same as unenforceable and be pleased to pass

Counsel for the Petitioner:MR.DILIP KUMAR SHIRODKAR

Counsel for the Respondent No.: MR.RAMA RAO GANTA

The Court made the following :

ORDER:

The petitioner claims to be the tenant of non-residential premises belonging to the 3rd respondent. He was served with a notice, dated 01-12-2004, issued by the respondents 1 and 2, under Section 459 of the Hyderabad Municipal Corporation Act (for short 'the Act'), requiring him to vacate the building within 7 days, failing which demolition action will be initiated, departmentally. The only contention urged on behalf of the petitioner is that no opportunity, as contemplated under Section 459 of the Act, was provided to him to put forward the objections.

Heard the learned counsel for the petitioner and learned Standing Counsel for the Municipal Corporation.

The impugned notice does not refer to any earlier proceedings. The petitioner is straightaway requested to vacate the building immediately, or to remove the dilapidated structures. Section 456 of the Act, which confers the power on the Commissioner, to remove dilapidated structures, read with Section 459; mandates issuance of notices.

Hence, the writ petition is disposed of, and the impugned notice is set aside, leaving it open to the respondents 1 and 2, to take necessary steps strictly in accordance with Section 456 and 459 of the Act. There shall be no order as to costs.

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L. NARASIMHA REDDY, J.

Dt.14-12-2004

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To

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4. 2 C.D. copies.